

ASSOCIATION OF LEGAL PROFESSIONALS (ALP)

February 9, 2011

Ms. Gina Donnelly
Office of Employee Relations
City of San Jose
200 E Santa Clara St
San Jose, CA 95113

RE: ALP's Proposed Ground Rules

Dear Ms. Donnelly:

In anticipation of the commencement of the negotiation of the Collective Bargaining Agreement between the City and our Association, we are proposing the attached Ground Rules.

In addition to these proposed Rules, we will continue our discussion of the proposal to hold our negotiations in a manner that is open to the public.

If there is sufficient time at our Friday meeting, we would anticipate discussing the City's Responses to our Requests For Information as well as planning future sessions.

Thank you.

Sincerely,

William Clark

William Clark, President
Association of Legal Professionals

ASSOCIATION OF LEGAL PROFESSIONAL (ALP)
c/o City Attorney's Office, 200 East Santa Clara St FL 16, San Jose, CA 95113

ALP's Proposed Negotiation Ground Rules

1. **GOAL** - The overarching goal of these negotiations is to reach agreement on a complete Collective Bargaining Agreement. Both ALP and City management agree to adhere to the highest level of good faith in the conduct of the negotiations and not engage in tactics that only arguably meet barest minimal legal standards, and shall endeavor to conduct the negotiations in an open, fair, and accurate manner.
2. **FAIRNESS IN OPEN COUNCIL DISCUSSIONS** - Recent changes to City Council policy that create a forum for open Council discussion by ALP shall be implemented in the following manner:
 - a. All written proposals and authorized written communications from ALP to OER shall be promptly presented to City Council and posted upon the City's labor negotiation web page and on the City Agenda web page (if they relate to a Council Agenda item) so that they can be discussed at an Open Council Session.
 - b. Council shall not place items about any matter that would affect ALP's negotiations with the City on any City Agenda, including any proposed implementation of a City proposal following declaration of impasse, without complying with the City sunshine timelines and without invoking any waivers of the City's Sunshine time requirements.
3. **FAIRNESS IN CONDUCT OUTSIDE OF COUNCIL MEETINGS** - Recognizing that it has an unequal level of access to Council outside of City Council meetings, the City administration agrees that it will adhere to the following standards in the use of that access:
 - a. In the event that the Mayor, City Council or the City administration plans to place any item that would affect negotiations with ALP on the Rules and Open Government agenda and/or the City Council Agenda, ALP must be given a minimum of 24 hours notice prior to submission of any item at Rules and Open Government or City Council Agenda.
 - b. If in course of mediation the City's negotiators and ALP reach an understanding that they should present a possible mediated solution to the City Council and to ALP's membership, then the City administration shall follow through and present the mediation proposal to City Council and shall not prevent the mediation proposals from being considered by City Council or by the ALP membership.
4. **ECONOMIC BASIS OF PROPOSALS** - To improve the fairness and efficiency of the negotiations, the City negotiators shall provide ALP with reasonable supporting information with each City proposal and with any rejection of an ALP proposal. This information shall be sufficient to provide ALP with a reasonable description of the economic effect of each proposal including a dollar value and the methodology and basis of the City's calculations, including references to the applicable sections of

other documents that the City relied upon in its proposal or response. In particular, City shall provide ALP with its methods of calculating any element of "total compensation reduction" of any proposal, the method of valuation of proposed retirement benefits changes is calculated in particular the City's method of calculating the City's savings associated with employee benefits. Furthermore, the City shall make it clear in any compensation or benefit reduction proposal, when the proposed cost reduction would go toward costs that were not incurred by the City on behalf of ALP members. For example, proposals to reduce the City's estimated "unfunded liability" (for pension or retiree healthcare) should make it clear what amounts of any City proposal would effectively result in ALP members paying for costs not attributable to the pension or benefits received by ALP members.

5. **LEGAL BASIS OF PROPOSALS** - The City agrees that it will not insist on proposals that do not have a clear, generally recognized legal basis. If ALP expresses its good faith belief that a position taken by the City is not legally supportable and ALP provides a legal basis for such belief, the City shall promptly provide ALP with a reasonable summary of the legal support for the City's position.
6. **COMMITMENT TO RESPOND TO ALL REQUESTS** - Whenever possible, issues for discussion at future meetings shall be identified at the conclusion of the prior meeting. Additional information or action items needed by either party shall be identified at the end of each meeting.
7. **OPEN DISCUSSION OF THE REASONS FOR DENIAL OF INFORMATION** - If information, including economic justification or legal authority, is denied, then the City shall promptly provide a written explanation for the refusal to provide the information. Any decision to deny information (or the failure without explanation) of the Administration to provide the requested information within the time frames provided by the Public Records Act, may be appealed by ALP to the Rules Committee and to the Council in the same manner that denials of Public Records Act requests are handled.
8. **TENTATIVE PROPOSALS** - During negotiating sessions, all City and ALP negotiating team members may express opinions, share ideas, suggest options, and provide additional information. However, statements of individual team members shall not constitute a proposal, counterproposal, or rejection of a proposal. There is no implied commitment by either party when brainstorming during negotiation Sessions. Any Tentative Agreement on a new Memorandum of Agreement or on individual issues must be in writing and signed by the lead negotiators. Nothing that is not in writing and signed by the lead negotiators will be construed as part of any Tentative Agreement.